

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HUDSON NEUROSURGERY, PLLC and
GILBERTO SALCEDO,

Plaintiffs,

-against-

CBT TRANSPORTATION GROUP EMPLOYEE
FUND, INC.,

Defendant.

USDC SDNY
DOCUMENT
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DATE FILED: 5/3/2022

No. 21 CIV 10083 (NSR)

ORDER

NELSON S. ROMÁN, United States District Judge:

Plaintiffs Hudson Neurosurgery, PLLC and Gilberto Salcedo (“Plaintiffs”) commenced this action against Defendant CBT Transportation Group Employee Fund, Inc. (“Defendant”) on November 26, 2021 for damages and relief arising from alleged violations of Section 502(a) of ERISA, 29 U.S.C. § 1132(a), and for claims of breach of contract, negligence, and unjust enrichment. (ECF No. 1.) On April 28, 2022, this Court issued an Order to Show Cause directing Plaintiffs to show cause in writing on or before May 6, 2022 why this action should not be dismissed for want of prosecution pursuant to Fed. R. Civ. P. 41(b). (ECF No. 4.) On May 2, 2022, Defendant filed a waiver of service (ECF No. 5) and Plaintiffs filed a response to the Court’s Order to Show Cause (ECF No. 6.)

Plaintiffs represent that on February 16, 2022 Defendant’s counsel indicated Defendant would accept service but, due to personal circumstances, counsel forgot to mail the waiver. (ECF No. 6 at 1.) The Court reminds Plaintiffs that it is their responsibility to timely pursue their claims. In consideration of Plaintiffs’ response, the Court hereby DENIES the Order to Show Cause as moot.

The Court directs Defendant's counsel to file a Notice of Appearance as soon as possible. The Court notes that Defendant's time to respond has already passed. However, in light of Plaintiffs' response, the Court hereby directs Defendant to file an answer or to otherwise respond to Plaintiffs Amended Complaint by May 17, 2022. To the extent Defendant intends to respond through motion practice, it is advised to consult this Court's local rules and comply with the requirement to submit a premotion conference letter.

Plaintiffs are directed to serve a copy of this Order on Defendant's counsel and to file a proof of service on the docket.

Dated: May 3, 2022
White Plains, New York

SO ORDERED:

A handwritten signature in blue ink, appearing to read "Nelson S. Román", is written over a horizontal line.

NELSON S. ROMÁN
United States District Judge